

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

3M COMPANY,

Plaintiff,

v.

NEXUS MEDICAL LLC,
VINASIA CHE TAO LLC, and
DOES 1-10

Defendants.

Civil Action No. 1:20-cv-00697-LY

DECLARATION OF MICHAEL W. O'DONNELL

I, Michael W. O'Donnell, pursuant to 28 U.S.C. § 1746 and upon penalty of perjury,
declare as follows:

1. I am a resident of the State of Texas; over the age of 18; and competent to make this declaration. I could and would testify as to the matters set forth herein, if called upon to do so.

2. I am a partner in the San Antonio office of the law firm of Norton Rose Fulbright US LLP. I am counsel of record for Plaintiff 3M Company (“3M”) in the above-captioned action.

3. I submit this declaration in support of 3M Company's application for a temporary restraining order, preliminary injunction and motion for expedited discovery against Defendants Nexus Medical LLC, VinAsia Che Tao, LLC, and John Does 1 through 10 (collectively, "Defendants"). No prior application for the relief sought herein has been requested.

4. The information set forth herein is based on: (i) my representation of 3M in this lawsuit; (ii) my review of the documents attached hereto as exhibits; and (iii) my review of the pleadings and proceedings to date in this lawsuit.

5. I attach hereto as **Exhibit 1** a true and correct copy of a printout from the website located at <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/summary.html> (last accessed on June 19, 2020).

6. I attach hereto as **Exhibit 2** a true and correct copy of a printout from the website located at <https://www.cdc.gov/coronavirus/2019-ncov/hcp/respirators-strategy/index.html> (last accessed on June 19, 2020).

7. I attach hereto as **Exhibit 3** a true and correct copy of a printout from the website located at <https://www.cdc.gov/coronavirus/2019-ncov/cases-updates/cases-in-us.html> (last accessed on June 19, 2020).

8. I attach hereto as **Exhibit 4** a true and correct copy of an article that appeared in the *Wall Street Journal* on April 2, 2020, titled *3M CEO on N95 Masks: Demand Exceeds Our Production Capacity* (<https://www.wsj.com/articles/3m-ceo-on-n95-masks-demand-exceeds-our-production-capacity-11585842928>; last accessed June 19, 2020).

9. I attach hereto as **Exhibit 5** a true and correct copy of an order granting 3M a temporary restraining order in the lawsuit styled *3M Company v. RX2Live, LLC and RX2Live, Inc.*, Case No. 1:20-cv-00523, presently pending in the United States District Court for the Eastern District of California.

10. I attach hereto as **Exhibit 6** a true and correct copy of an order granting 3M a temporary restraining order in the lawsuit styled *3M Company v. Performance Supply, LLC*, Case No. 1:20-cv-02949, presently pending in the United States District Court for the Southern District of New York.

11. I attach hereto as **Exhibit 7** a true and correct copy of an order granting 3M a preliminary injunction in the lawsuit styled *3M Company v. Performance Supply, LLC*, Case No.

1:20-cv-02949, presently pending in the United States District Court for the Southern District of New York.

12. I attach hereto as **Exhibit 8** a true and correct copy of an order granting 3M a temporary restraining order in the lawsuit styled *3M Company v. Geftico, LLC*, Case No. 6:20-cv-648, presently pending in the United States District Court for the Middle District of Florida, Orlando Division.

13. I attach hereto as **Exhibit 9** a true and correct copy of (i) an order denying 3M's request for a temporary restraining order for lack of notice and (ii) an order resetting the matter for hearing on May 12, 2020 (as 3M has now given proper notice in the lawsuit styled *3M Company v. TAC2Global LLC*, No. 20-cv-1003-T-35CPT, presently pending in the United States District Court for the Middle District of Florida).

14. I attach hereto as **Exhibit 10** a true and correct copy of an order granting in part and denying in part 3M's temporary restraining order in the lawsuit styled *3M Company v. TAC2Global LLC*, No. 20-cv-1003-T-35CPT, presently pending in the United States District Court for the Middle District of Florida.

15. I attach hereto as **Exhibit 11** a true and correct copy of an order denying 3M's temporary restraining order in the lawsuit styled *3M Company v. 1 Ignite Capital LLC et al.*, No. 4:20-cv-00225-AW-MAF, presently pending in the United States District Court for the Northern District of Florida. On the record, the court concluded there was not a risk of ongoing fraud because the misconduct involved only a single solicitation.

16. I attach hereto as **Exhibit 12** a true and correct copy of a stipulated order granting 3M a preliminary injunction in the lawsuit styled *3M Company v. Zachary Puznak, et al.*, Case

No. 1:20-cv-1287, presently pending in the United States District Court for the Sothern District of Indiana.

17. I attach hereto as **Exhibit 13** a true and correct copy of an order granting 3M a temporary restraining order in the lawsuit styled *3M Company v. Zachary Puznak, et al.*, Case No. 1:20-cv-1287, presently pending in the United States District Court for the Sothern District of Indiana.

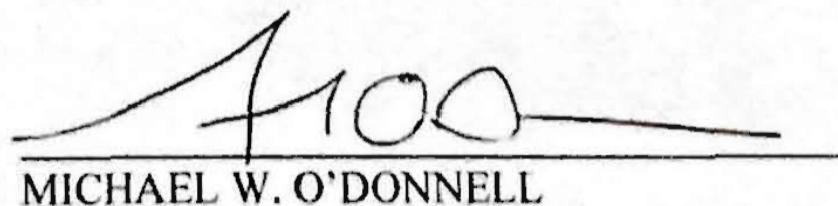
18. I attach hereto as **Exhibit 14** a true and correct copy of an order granting 3M a preliminary injunction in the lawsuit styled *3M Company v. Zachary Puznak, et al.*, Case No. 1:20-cv-1287, presently pending in the United States District Court for the Sothern District of Indiana.

19. I attach hereto as **Exhibit 15** a true and correct copy of an order granting 3M a preliminary injunction in the lawsuit styled *3M Company v. Matthew Starsiak, et al.*, Case No. 20-cv-1314 (SRN/TNL), presently pending in the United States District Court for the Sothern District of Minnesota.

20. I attach hereto as **Exhibit 16** a true and correct copy of a printout from the website located at <https://www.nexusmedicalproducts.com/> (last accessed on June 29, 2020).

21. I attach hereto as **Exhibit 17** a true and correct copy of correspondence sent on July 2, 2020 to all addresses and points of contact 3M has identified as to the Defendants in this matter notifying them of 3M's intention to pursue a Temporary Restraining Order.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and that this declaration was executed this the 2nd day of July, 2020.



MICHAEL W. O'DONNELL